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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,973	02/21/2002	Tetsu Shigetomi	450100-03762	2209
20999	7590	12/20/2011	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				JONES, HEATHER RAE
ART UNIT		PAPER NUMBER		
2481				
		MAIL DATE		DELIVERY MODE
		12/20/2011		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/081,973	SHIGETOMI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	HEATHER JONES	2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 November 2011.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 2-5,8-15,17-21,23-29,32 and 37-39 is/are pending in the application.
  - 5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 2-5,8-15,17-21,23-29,32 and 37-39 is/are rejected.
- 8) Claim(s) \_\_\_\_\_ is/are objected to.
- 9) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on 21 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date. _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed November 22, 2011 have been fully considered but they are not persuasive.

The Applicant argues that Nakamura et al. fails to disclose or render possible "wherein when the commercial broadcast information is detected from the broadcast information, a storage address of the commercial broadcast information in the storing means is stored". The Examiner respectfully disagrees. Nakamura et al. discloses a commercial detecting means for detecting the commercial broadcast information from the received broadcast information based on predetermined identification information contained in the received broadcast information (col. 12, lines 17-35 – the CM start unit (23) corresponds to a CM detecting unit). Furthermore, Nakamura et al. discloses in Fig. 4 a table from the CM index storage unit of the broadcast receiver that includes the starting and ending addresses of the commercials (col. 13, line 41 – col. 14, line 2; col. 14, lines 12-20). Therefore, Nakamura et al. discloses the new claim limitation and the rejection is maintained.

### **Claim Rejections - 35 USC § 101**

2. The apparatus claims 2-5, 8-15, and 37 are considered statutory because the apparatus is not disclosed in the specification to be implemented solely with software and because they invoke 35 U.S.C. 112 sixth paragraph. The method claims 17-21, 23-

29, 32, 38, and 39 are considered to be statutory because the method is tied to an apparatus, wherein the apparatus is the display.

***35 USC § 112***

3. Claims 8 and 17 invoke 35 U.S.C. 112 sixth paragraph by meeting the limitations set forth in the three prong test specified in MPEP 2181. Regarding claims 8 and 17, the storing means for/step for storing the broadcast is considered to read on the storage unit (13) in Fig. 2; the commercial detecting means for/step for detecting commercials is considered to read on the commercial detector (17) in Fig. 2; the reproducing means for/step for reproducing the broadcast information is considered to read on the reproduction unit (16) in Fig. 2; the inputting means for/step for is considered to read on the input unit (19) in Fig. 2; and the controlling means for controlling the other means is considered to read on the controller (18) of Fig. 2.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 3, 4, 9-13, 17, 19, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (U.S. Patent 7,013,477) in view of Daniels (U.S. Patent 6,973,669) in view of Baji et al. (U.S. Patent 5,027,400) in view of Boylan,

III et al. (U.S. Patent Application Publication 2002/0166120) in view of Dustin et al. (U.S. Patent 6,496,857).

Regarding claim 8, Nakamura et al. discloses **an information reproducing apparatus comprising: a receiver for receiving broadcast information and selecting a signal therefrom that includes commercial broadcast information having a supplied sequence** (Fig. 2; col. 12, lines 17-35); **a storing means (26) for storing a sequentially supplied series of the broadcast information** (col. 12, lines 17-35; col. 14, lines 12-20); **a commercial detecting means for detecting the commercial broadcast information from the received broadcast information based on predetermined identification information contained in the received broadcast information** (col. 12, lines 17-35 – the CM start unit (23) corresponds to a CM detecting unit), **wherein when the commercial broadcast information is detected from the broadcast information, a storage address of the commercial broadcast information in the storing means is stored** (Fig. 4 - a table from the CM index storage unit of the broadcast receiver that includes the starting and ending addresses of the commercials; col. 13, line 41 – col. 14, line 2; col. 14, lines 12-20); **a reproducing means for reproducing broadcast information stored in the storing means on a display device (15)** (col. 14, lines 21-25); **and an inputting means for inputting a commercial designation signal for designating the commercial broadcast information to be reproduced at the reproducing means** (Fig. 5; col. 14, line 25 – col. 15, line 8). However,

Nakamura fails to disclose a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information, and, when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced, wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial

**broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, and wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display.**

Referring to the Daniels reference, Daniels discloses **an apparatus comprising a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information** (Fig. 17; col. 25, line 60 – col. 26, line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials at the same time as the program as disclosed by Daniels with the apparatus disclosed by Nakamura et al. so that the user can keep watching their program and only pause when they see a commercial in the corner that interests them. However,

Nakamura et al. in view of Daniels still fail to disclose **that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced, wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, and wherein a commercial broadcast information is reproduced in any desired order by**

**selection from the information displayed in a line at the upper portion of the display.**

Referring to the Baji et al. reference, Baji et al. discloses **that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced** (col. 3, line 58 - col. 4, line 13 - between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in view of Daniels in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials. However, Nakamura et al. in view of Daniels in view of Baji et al. still fail to disclose **the reproducing means reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of**

**commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, and wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display.**

Referring to the Boylan, III et al. reference, Boylan, III et al. **discloses an apparatus wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the sequence of reproduction, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display** (Fig. 2 - displays advertisements in a line in

the upper portion of the display; Figs 13 and 14 – the users can pick any commercial from the still images they want to view in any order; paragraph [0044] – text, graphic, or video information (videos are comprised of several still images); paragraphs [0070] and [0073]-[0076] - paragraph [0073] states that the advertisements can be displayed in any desired format, which means the layout of Fig. 2 can be utilized).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials in a line in the upper portion of the display to allow the user to select the commercials to be displayed in any order as disclosed by Boylan, III et al. with the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in order to allow the user to choose commercials at their convenience and in any order thereby giving more control to the user over the commercials they are viewing. However, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. fail to disclose **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced.**

Referring to the Dustin et al. reference, Dustin et al. discloses **an apparatus wherein the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced** (col. 6, lines 25-33 – after the ad is displayed for a period of time that ad is replaced by a new ad; col. 8, lines 26-36 - the storage area where the graphics related to the commercials are streamed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced a commercial that has been viewed on the screen with a new commercial that has not been viewed while storing an image related to the commercial that was just viewed for future reference as disclosed by Dustin et al. in the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in order to guarantee that all the commercials are being viewed and to allow the user to return to the commercial as desired.

Regarding claim **3**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads said detected commercial broadcast information**

**from said storing means in accordance with a sequence by which said commercial broadcast information was supplied** (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim 4, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means** (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim 9, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means suspends reproduction of said series of broadcast information and makes the reproducing means reproduce designated commercial broadcast information when said commercial designation signal is input** (Nakamura et al.: Fig. 5; col. 14, line 25 – col. 15, line 8).

Regarding claim 10, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, including that **the controlling means combines a still image of a reproduced image of the detected commercial broadcast information and a reproduced image of the series of**

**broadcast information and makes the reproducing means reproduce the same** (Boylan, III et al.: Fig. 13).

Regarding claim 11, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claims 8 and 10, including that **the controlling means erases the still image of said commercial broadcast information from a display area of said reproducing means in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with said commercial designation signal** (Dustin et al.: col. 6, lines 25-33 - after an ad is displayed for a period of time that ad is replaced (erased) and another ad is shown).

Regarding claim 12, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claims 8 and 10 including **the controlling means changes the still image of the commercial broadcast information to a predetermined image showing the commercial broadcast information finished being reproduced in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with the commercial designation signal** (Boylan, III et al.: paragraphs [0070] and [0073]-[0076] – after watching the commercial an indication to the user is given as to whether to

buy the product, record the program, or etc., therefore letting the user know that the commercial is finished).

Regarding claim **13**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means** (Nakamura et al.: Fig. 4; col. 14, lines 12-20).

Regarding claims **17** and **19**, these are method claims corresponding to the apparatus claims 8 and 3. Therefore, claims 17 and 19 are analyzed and rejected as previously discussed with respect to claims 8 and 3. The apparatus disclosed in claims 8 and 3 perform the method disclosed in claims 17 and 19.

Regarding claims **23** and **24**, these are method claims corresponding to the apparatus claims 8 and 9. Therefore, claims 23 and 24 are analyzed and rejected as previously discussed with respect to claims 8 and 9. The apparatus disclosed in claims 8 and 9 perform the method disclosed in claims 23 and 24.

Regarding claims **25-27**, these are method claims corresponding to the apparatus claims 10-12. Therefore, claims 25-27 are analyzed and rejected as previously discussed with respect to claims 10-12. The apparatus disclosed in claims 10-12 perform the method disclosed in claims 25-27.

6. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. as applied to claims 8 and 17 above, and further in view of Barritz et al. (U.S. Patent Application Publication 2002/0019769).

Regarding claim 2, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the controlling means generates a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected.**

Referring to the Barritz et al., Barritz et al. discloses **an information reproducing apparatus disclosing a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected** (paragraph [0117]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the message system as disclosed by Barritz et al. with the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in order to determine viewer presence during commercials.

Regarding claim **18**, this is a method claim corresponding to the apparatus claim 2. Therefore, claim 18 is analyzed and rejected as previously discussed with respect to claim 2.

7. Claims 5, 14, 20, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville as applied to claims 8, 17, and 23 above, and further in view of Levy (U.S. Patent Application Publication 2003/0192060)

Regarding claim **5**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.**

Referring to the Levy reference, Levy discloses **detecting commercial broadcast information based on electronic watermark information** (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. to provide the apparatus with a better quality commercial detector.

Regarding claim 14, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.**

Referring to the Levy reference, Levy discloses **detecting commercial broadcast information based on electronic watermark information** (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of

Boylan, III et al. in view of Dustin et al. to provide the apparatus with a better quality commercial detector.

Regarding claim **20**, this is a method claim corresponding to the apparatus claim 5. Therefore, claim 20 is analyzed and rejected as previously discussed with respect to claim 5.

Regarding claim **28**, this is a method claim corresponding to the apparatus claim 14. Therefore, claim 28 is analyzed and rejected as previously discussed with respect to claim 14.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (U.S. Patent 7,013,477) in view of Baji et al. (U.S. Patent 5,838,314) in view of Boylan, III et al. (U.S. Patent Application Publication 2002/0166120) in view of Dustin et al. (U.S. Patent Application Publication 2005/0108095).

Regarding claim **32**, Nakamura et al. discloses **an information reproducing method comprising: receiving sequential broadcast information having a plurality of broadcast portions and a plurality of broadcast commercial portions, the plurality of broadcast commercial portions in a broadcast sequence and separating the broadcast portions** (Fig. 2; col. 12, lines 17-35); **storing the sequential broadcast information in the sequence as received** (col. 12, lines 17-35; col. 14, lines 12-20); **detecting the commercial broadcast information from said received broadcast information based on predetermined identification information contained in said received broadcast information** (col. 12, lines 17-35 – the CM start unit

(23) corresponds to a CM detecting unit), **wherein when the commercial broadcast information is detected from the broadcast information, a storage address of the commercial broadcast information in the storing means is stored** (Fig. 4 - a table from the CM index storage unit of the broadcast receiver that includes the starting and ending addresses of the commercials; col. 13, line 41 – col. 14, line 2; col. 14, lines 12-20); **and reproducing broadcast information stored in the storing means** (col. 14, lines 21-25). However, Nakamura et al. fails disclose **reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions, and wherein the reproducing means reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast**

**information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Baji et al. reference, Baji et al. discloses **an information reproducing method comprising reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions** (col. 3, line 58 - col. 4, line 13 - between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials. However, Nakamura et al. in view of Baji et al. still fail to **disclose the reproducing means**

**reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Boylan, III et al. reference, Boylan, III et al. **discloses an apparatus wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a**

**line at an upper portion of the display according to the sequence of reproduction, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display** (Fig. 2 - displays advertisements in a line in the upper portion of the display; Figs 13 and 14 – the users can pick any commercial from the still images they want to view in any order; paragraph [0044] – text, graphic, or video information (videos are comprised of several still images); paragraphs [0070] and [0073]-[0076] - paragraph [0073] states that the advertisements can be displayed in any desired format, which means the layout of Fig. 2 can be utilized).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials in a line in the upper portion of the display to allow the user to select the commercials to be displayed in any order as disclosed by Boylan, III et al. with the information reproducing apparatus as disclosed by Nakamura et al. in view of Baji et al. in order to allow the user to choose commercials at their convenience and in any order thereby giving more control to the user over the commercials they are viewing. However, Nakamura et al. in view of Baji et al. in view of Boylan, III et al. fail to disclose **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to**

**the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Dustin et al. reference, Dustin et al. discloses an apparatus wherein **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced** (col. 6, lines 25-33 – after the ad is displayed for a period of time that ad is replaced by a new ad; col. 8, lines 26-36 - the storage area where the graphics related to the commercials are streamed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced a commercial that has been viewed on the screen with a new commercial that has not been viewed while storing an image related to the commercial that was just viewed for future reference as disclosed by Dustin et al. in the information reproducing apparatus as disclosed by Nakamura et al. in view of Baji et al. in view of Boylan, III et al. in order to guarantee that all the commercials are being viewed and to allow the user to return to the commercial as desired.

9. Claims 15, 21, 29, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of

Boylan, III et al. in view of Dustin et al. as applied to claims 8, 17, and 23 above, and further in view of Harville (U.S. Patent 6,993,245).

Regarding claim 15, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose **the commercial detecting means detects scene changes where a reproduced image of said broadcast information changes discontinuously and detects said commercial broadcast information based on a time interval at which said detected scene changes occur in said reproduced image.**

Referring to the Harville reference, Harville discloses **an apparatus wherein the commercial detecting means detects scene changes where a reproduced image of said broadcast information changes discontinuously and detects said commercial broadcast information based on a time interval at which said detected scene changes occur in said reproduced image** (Harville.: col. 7, lines 33-47 – scene breaks and/or fades are monitored over a period of time).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the commercial detecting means detect scene changes where a reproduced image of said broadcast information changes discontinuously and detects said commercial broadcast information based on a time interval at which said detected scene changes occur in said reproduced image as disclosed by Harville in the apparatus disclosed by

Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in order to ensure a scene change is not being detected as a commercial broadcast and that only actual commercial broadcasts are being detected.

Regarding claim **21**, this is a method claim corresponding to the apparatus claim 15. Therefore, claim 21 is analyzed and rejected as previously discussed with respect to claims 15.

Regarding claim **29**, this is a method claim corresponding to the apparatus claim 15. Therefore, claim 29 is analyzed and rejected as previously discussed with respect to claim 15.

Regarding claim **37**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Harville reference, Harville discloses **an apparatus wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information** (col. 9, lines 17-22 – significant volume changes).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized any method of detecting commercial broadcasts in the information reproducing apparatus disclosed by Harville in the apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in order to properly detect a commercial broadcast.

Regarding claim 38, this is a method claim corresponding to the apparatus claim 37. Therefore, claim 38 is analyzed and rejected as previously discussed with respect to claims 37.

Regarding claim 39, this is a method claim corresponding to the apparatus claim 37. Therefore, claim 39 is analyzed and rejected as previously discussed with respect to claim 37.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
Art Unit 2481

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December 14, 2011  
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